

REMARKS

Entry of this amendment in supplement to the amendment filed on September 3, 2002, and reconsideration and allowance of this application, as amended, is respectfully requested.

By the present supplement amendment, in response to the November 6, 2002 Office Action, new claims 43-54 are re-presented for consideration with the underlining required by 37 C.F.R. 1.173(b)(2) and 37 C.F.R. 1.121. Accordingly, entry and examination of these claims is respectfully requested.

With regard to the requirement for a new oath or declaration, a new declaration is being forwarded to the representative of the assignee for signature, noting that the new declaration will include the filing date of all amendments made in the Reissue Application, including the present amendment. Accordingly, if the Examiner has not received the declaration at the time the present amendment is taken up for examination, it is requested that the Examiner contact the undersigned attorney to determine the status of this matter.

By the present amendment, new claims 43-54 are re-presented for examination in a form meeting the requirements of 37 C.F.R.1.173(b)(2) and 1.121. It is noted that these claims correspond exactly to previously submitted claims 30-40 and 42. Claims 30-40 and 42 had previously been cancelled in the December 23, 1999 amendment so that the present reissue application could be considered in the interference 104,331 based upon motions filed by party Hill in that interference. As noted in the December 23, 1999 amendment, the decision of Winter et al. v. Fujita et al. decided on November 16, 1999 indicated that a reissue application would not be considered in an interference if it contained claims which did not correspond to the

count. Therefore, in an attempt to enter the present reissue application into the interference, Claims 30-40 and 42 are cancelled.

However, at the present time, it is noted that the motions which were filed in the interference for the purposes of bringing the present reissue application into the interference were not granted. In addition, the decision by the Board of Patent Appeals and Interferences dated August 7, 2002, has awarded priority to the Party Hill, that is, the present reissue applicant. Accordingly, at the present time, applicants are reinstating the previously presented claims 30-40 and 42 as new claims 43-54, and request consideration and allowance of these claims together with the other pending claims 1-29.


With regard to this, it is noted that new claims 43-54 define further features of the present invention beyond the features defined in pending claim 1. In the Office Action dated March 22, 2000, the sole ground of rejection against claim 1 was a 35 U.S.C. 102(e) rejection of claim 1 being anticipated by U.S. Patent 5,351,321 to Snitzer et al. However, for reasons set forth in the Request for Reconsideration on June 2, 2000, including the submission of a Declaration under 37 C.F.R. 1.131, it is respectfully submitted that this rejection should be removed with regard to independent claim 1, and is not applicable to newly presented claims 43-54 which contain further limitations over and above those presented in claim 1. Beyond this, as noted above, applicants have been awarded a decision of priority for the U.S. Patent 5,367,588, to which the present reissue application is directed, relative to the Snitzer patent application Serial No. 08/310,426, which is identical to the Snitzer patent application Serial No. 963839 which ultimately issued as the Snitzer U.S. patent 5,351,321. Accordingly, entry and allowance of newly presented claims 43-54, together with pending claims 1-29, is respectfully requested.

If the Examiner believes that there are any other points which may be clarified or otherwise disposed of, either by telephone discussion or by personal interview, the Examiner is invited to contact applicants' undersigned attorney at the number indicated below.

To the extent necessary, the applicants petition for an extension of time under 37 CFR 1.136. Please charge any shortage in the fees due in connection with the filing of this paper, including extension of time fees, to the deposit account of Antonelli, Terry, Stout & Kraus, Deposit Account No. 01-2135 (312.104331R00).

Respectfully submitted,

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